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10/738,396	12/17/2003	William E. Mazzara JR.	GP-304224 (2760/145)	7990

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EXAMINER

VU, MICHAEL T

ART UNIT PAPER NUMBER

2617

MAIL DATE DELIVERY MODE

02/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/738,396	<b>Applicant(s)</b> MAZZARA, WILLIAM E.	
<b>Examiner</b> Michael Vu	<b>Art Unit</b> 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
- (b)  They raise the issue of new matter (see NOTE below);
- (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-20.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Continue Sheet.
12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13.  Other: \_\_\_\_\_.

### ADVISORY ACTION

1. On pages 3 lines 1-9, of Applicant's Remarks/Arguments, Applicant argues that the rejections cannot be maintained unless the following questions can be answered:  
"which one of these fields contains the radio station information?" "radio module within a mobile vehicle?" "what rationale supports the Examiner's view that a cell phone can be equated to a radio station?"
2. In response, the examiner has been carefully reviewed the Applicant's Remarks or Arguments. Thus, the Examiner must give the broadest reasonable interpretation to all claims presented that **the radio station information** is a device including radio station identification, radio station telephone number, and radio station messages such as alert information, and stores all of the received radio station information at stored in the communication device.
3. Fingerhut teaches the concept of the two-way communication device #5 includes a memory storage unit that stores a permanently assigned manufacturer serial number, and programmable unique network address. This device contains a software applications that will respond to an activation request and corresponding network responses. Further, the memory stores a generic network address assigned by the manufacturer of the device #5 at the time of manufacture. The device #5 also has a scanning circuit that searches for a control signal, and a wireless radio modem that

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transmits and receives data to and from the network. In addition, the device #5 has an output, e.g., LCD screen, and an input device such as numerical pad, keyboard and/or voice recognition device quipped with microprocessor which control operation of the device #5 (See paragraphs Col. 3, lines 1-28), and further Fingerhut provides an opportunity for the service providers to insert into the response activation such as packet, frame, and/or data for example, a welcome message, user instruction, and marketing information (See paragraphs Col. 5, lines 10-14). In addition, the user can change a service level, area of coverage, or frequency band such as AM or FM, and Internet (See paragraph Col. 7, lines 15-17). And one exemplary use of the Fingerhut's invention is in a car tracking device. The car tracking device can be similar to the device #5 (Col. 7, line 35-37). This device.

4. Furthermore, Odinak teaches a telematic control unit is in wireless communication device located and installed in a vehicle. This device includes a processor, memory, GPS unit, user interface, and radio module is capable of sending and receiving both voice recognition, instructions and/or data (See paragraph Col. 3, lines 19-20)

5. From the above, the examiner believes that the rejection of the claims 1-20 is proper.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Vu whose telephone number (571) 272-8131. The examiner can normally be reached on 8:30 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 272-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.



Michael Vu

Examiner

JEAN GELIN  
PRIMARY EXAMINER

